

SHEFFIELD LAW CENTRE

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10 Joiner Street
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13th May 2003.

Mr. Grattan Puxon,
1 John Harper Street
Colchester,
Essex,
CO1 1RP.

Dear Mr Puxon,

Re: Mr Fidaim Rexha

I refer to our above named client and our telephone conversation earlier today and I thank you very much for agreeing to give an opinion on the ethnic origin of our client.

For ease of reference, our client is a 17 years old Kosovon from a Roma ethnic origin, he claims asylum in this country due to the persecution he suffered and the fear that he may suffer again in that country. The secretary of state has refused his application, and one of the reasons for the refusal is that the Secretary of State does not believe he is from a Roma ethnic group. I am enclosing a copy of his interview notes and the Secretary of State reasons for refusal letter.

Our client states that he is of mixed parentage, his mother being Albanian and his late father Roma, he spent most of his life with his mother, hence he is not as familiar with the Roma customs as he might be.

I am enclosing two recent passport size photographs for your attention and should be pleased if you would examine the same and advise whether in your opinion our client is likely to be Roma. I would also welcome your comment on any other part of our client interview notes and the Secretary of State reason for refusal, which might be helpful in our client quest for asylum, and his claim about his ethnic origin.

As stated during our conversation our client's case is listed for full hearing on Friday 16th May I should therefore be very grateful if you could treat this request as very urgent.





Home Office

Immigration and Nationality Directorate
Integrated Casework Directorate

PO Box 285, Liverpool, L69

Telephone 0870 606 7766

Fax 0151 237 0466

Fidaim REXHA

Our Ref R1069675

Date of Birth: 16/08/1985

Your Ref I/1390/AF

Nationality: **Federal Republic of Yugoslavia
(Kosovon)**

Date 16/12/2002

Dear Mr Rexha,

REASONS FOR REFUSAL

1. You have applied for asylum in the United Kingdom on the grounds that you have a well-founded fear of persecution in Yugoslavia. In order to qualify for asylum under the terms of the 1951 United Nations Convention relating to the Status of Refugees, to which the United Kingdom is a signatory, an applicant must show that he has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.
2. When you made your application for asylum, you claimed that your date of birth is 16/08/1985. However, you have failed to produce any evidence to substantiate this claim. Although you claimed to be a minor your physical appearance before the ASU Officer suggested that you were over eighteen. In the absence of any evidence to the contrary the Secretary of State does not accept you are a minor and is satisfied you should be treated as an adult in accordance with paragraph 349 of the HC 395 (as amended).
3. Your asylum claim is based upon your fear of return to Kosovo because of your race, namely that you are a gypsy. You claim that if you return to Kosovo you will be killed by Kosovans because you claim you are a gypsy. You claim your father was killed by Kosovans because he was a gypsy and he worked for the Serbs. You claim your home was demolished by the Kosovans.
4. Furthermore, the Secretary of State has given careful consideration to whether you should be allowed to remain in the United Kingdom as a result of our obligations under Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

Grattan Puxon
1 John Harper Street
Colchester
Essex CO1 1RP
Tel: 01206 523528

14 May 2003

TO WHOM IT MAY CONCERN

My name is Grattan Puxon, I was resident in former Yugoslavia for a number of years and have visited Kosovo many times. Until recent retirement, I was a journalist by profession and was for ten years General Secretary of the International Romani Union. I am author of "Destiny of Europe's Gypsies" and other publications on the subject of Roma.

I speak Romanes and Serbian, as well as English and French.

I have been requested by Sheffield Law Centre to give an opinion on the ethnic origins of their client, Mr Fidaim Rexha, to comment on his interview notes and the Secretary of State's reasons for refusal, and to provide relevant background information on the current situation in Kosovo.

Two recent photographs of Mr Rexha were sent to me on 13 May. His hair colour, I note, is dark, which is compatible with a Romani background. He has quite heavy eyebrows, light skin-colour, blue eyes. Roma, in Europe, range in colouring across the whole spectrum from black to white, with black hair, dark eyes and brown skin being considered "typical" and "representative" by both Roma and nonRoma alike (even the Romani national anthem draws attention to "black eyes"). In reality, Indian looks, though common, hardly predominate among the 10 million European Roma.

To turn a moment to another issue raised by the Secretary of State, many Roma in and from Kosovo do not speak Romanes.

But the "merit" of Mr Rexha's request for protection does not, in my opinion, lie in the degree to which he can justly claim to be part of the Romani community. On the contrary, it is his inability to find acceptance

among his father's people (with whom he may have had little or no contact), and even less so among his mother's people – the ethnic-Albanian population – which places Mr Rexha in the no-man's-land of those who are of mixed, ill-defined origin. They have no secure place. His mother, by marrying outside the ethnic-Albanian community, clearly demonstrated a) that her roots in that community were uncertain b) that she was nonconformist, going against the "norms".

Her son, born at best a Yugoslav, soon found in the turmoil of Kosovo in the 1980s and 1990s that this status gave him no security whatever. He found himself, in addition to being poor and unable to get a proper education, increasingly rejected by the well-defined, ethnic-Albanian majority. This majority, it is fair to say, shows continuing hostility towards Serbs, towards Roma and towards that misfit minority of mixed, undefined ethnic origin, who could once hold up their heads as Yugoslavs but now have no status in Kosovo.

Mr Fidaim Rexha, whose says his father was a Rom and his mother part-ethnic Albanian, is from from the village of Klodernic, known to the Serbs as Kladernica, some 35 km from Mitrovica, the largest city in northern Kosovo.. Ethnic tensions have remained high in this region because of the antagonism between the Serbian and Romani communities on one side and ethnic Albanians on the other.

Desperate for a safe place to stay and aware of the "advantage" of belonging to the Roma community, Mr Rexha has chosen to emphasise the "Gypsy" element in his ethnic mix. Reading his statements, I think he is himself genuinely, and not surprisingly, confused about his own origins. Traumatized in childhood, he hardly knows who he is or where he comes from, let alone where he belongs.

The use of the term "Roma" is very recent. It caught on in official circles in the UK only a few years after getting established in Yugoslavia, You will not see it outside of politically correct official and journalistic publications. You will not hear it commonly employed on the streets of Pristina or Mitrovica. The street word is still "Cigan" (Gypsy). And it would be the word Mr Rexha would have grown up hearing and using. Even an

assimilated, intellectual Rom in Belgrade called his own people "Cigani" when speaking to Serbs, up until the 1980s. Rom, Roma were words used by people when speaking Romanes, and Mr Rexha says he does not know Romanes. Educated nonRoma do use it today but it would have been practically unknown in Kladernica 15 years ago.

It must be noted that Mr. Fidiham Rexha, whose family he describes as living in a hut, not a proper house, were on the outskirts of Kladernica – and were very much marginalised. He says members had only menial work, such as cleaner, and that he was not accepted at school.

It is clear from my knowledge of Kosovan society that he and his mother did not, and do not, fit into any clear ethnic definition. While Yugoslavia functioned as a multi-ethnic society, such persons had some possibilities of acceptance and a hope of a viable life. They were Yugoslavs. During Mr Rexha's own unfortunate lifetime this has all changed and harsh ethnic divisions now make survival of such persons almost impossible.

His father was a Rom – but he has no definite ties to any of the well-defined Romani communities. His mother may be predominantly ethnic Albanian, but she has married first a Rom (who possibly did not speak Romanes and was himself of mixed background) and more recently a Serb. In these circumstances, she is obviously not accepted by the majority of ethnic Albanians.

He is an outcast, plainly not able to integrate into Kosovan society as it has evolved over the past few violent years.

The world of Mr. Fidiham Rexha, fragile at the time of his birth around 1985 and as he knew it growing up in Kladernica, was destroyed in the conflict between the Milosevic Government and ethnic-Albanians and by the subsequent ethnic-cleansing of Roma by the KLA.



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Fidaim REXHA

Our Ref R1069675

Date of Birth: 16/08/1985

Your Ref I/1390/AF

Nationality: **Federal Republic of Yugoslavia
(Kosovon)**

Date 16/12/2002

Dear Mr Rexha,

REASONS FOR REFUSAL

1. You have applied for asylum in the United Kingdom on the grounds that you have a well-founded fear of persecution in Yugoslavia. In order to qualify for asylum under the terms of the 1951 United Nations Convention relating to the Status of Refugees, to which the United Kingdom is a signatory, an applicant must show that he has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.
2. When you made your application for asylum, you claimed that your date of birth is 16/08/1985. However, you have failed to produce any evidence to substantiate this claim. Although you claimed to be a minor your physical appearance before the ASU Officer suggested that you were over eighteen. In the absence of any evidence to the contrary the Secretary of State does not accept you are a minor and is satisfied you should be treated as an adult in accordance with paragraph 349 of the HC 395 (as amended).
3. Your asylum claim is based upon your fear of return to Kosovo because of your race, namely that you are a gypsy. You claim that if you return to Kosovo you will be killed by Kosovans because you claim you are a gypsy. You claim your father was killed by Kosovans because he was a gypsy and he worked for the Serbs. You claim your home was demolished by the Kosovans.
4. Furthermore, the Secretary of State has given careful consideration to whether you should be allowed to remain in the United Kingdom as a result of our obligations under Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

5. The Secretary of State has considered your application but for the reasons given below has concluded that you do not qualify for asylum.
6. The Secretary of State notes that the Kosovo Roma have been targeted as a group because they are seen as having collaborated with Serb mistreatment of ethnic Albanians during the conflict. Allegations that some Roma took part in criminal acts with Yugoslav forces or opportunistic looting have blackened name of others (Kosovan country assessment 6.46). There have been notable improvements in the security and freedom of movement situation for Roma, Ashkaelia and Egyptians throughout Kosovo in the past year. The security position for Roma, Ashkaelia and Egyptian (RAE) communities varies according to perceptions of the majority population, locality, and language issues. The ability to speak fluent Albanian is likely to be a factor in the degree to which RAE are able to integrate with the majority community. But overall, RAE have experienced significantly improved possibilities to move about in communities where they reside and have increased access to public services (Kosovan country assessment 6.51). The Secretary of State does not therefore believe that belonging to the Roma community in itself constitutes grounds for a well founded fear of persecution in Kosovo.
7. Furthermore, the improvement in the security situation for RAE is reflected in the crime statistics. During the year 2000, 12 Roma were murdered; in 2001 the figure was 6; none have been killed in 2002 . (Kosovan country assessment 6.52).
8. The Secretary of State notes your claim that Kosovans have threatened to kill you, because you are Roma and that you worked as a cleaner for the Serbs. He takes the view that such individuals cannot be regarded as 'agents of persecution' within the terms of the 1951 United Nations Convention relating to the Status of Refugees.
9. In order to bring yourself within the scope of the United Nations Convention, you would have to show that these incidents of harassment were not simply the random actions of individuals but were a sustained pattern or campaign of persecution directed at you which was knowingly tolerated by the authorities, or that the authorities were unable, or unwilling, to offer you effective protection.
10. The Secretary of State considers that the authorities of Kosovo would be able to offer you effective protection and that your fear of persecution by Kosovans does not therefore bring you within the scope of the 1951 United Nations Convention relating to the Status of Refugees. Policing in Kosovo is being undertaken by a combination of KFOR troops, UNMIK civilian police and local Kosovo Police Service (KPS) officers. There are approximately 33,300 KFOR personnel in the province. UNMIK police are nearly up to strength with 4524 of the 4700 complement now in place and have assumed full responsibility for criminal investigations throughout the province, though they still rely upon KFOR support. (Yugoslavia country assessment 5.21). The Secretary of State therefore considers that you could have attempted to seek redress through the proper authorities before seeking international protection. He is of the opinion that sufficiency of protection, as provided by K-For and UNMIK, exists within Kosovo and that you would be able to avail yourself of it in the event of your return.
11. However the Secretary of State does not believe that you are at risk of harm from that Kosovan populace because he has reason to believe that you are not from the Roma community.

Did you report to UNMIK or KFOR? What was the response? Did you report to the local authorities? What was the response? Did you report to the international community? What was the response?

12. You claim the reason you are in fear of being killed is because you are a gypsy. However, when asked in your asylum interview are you Roma? (AIR Q.11) your answer "What you mean Roma- I am gypsy" leads the Secretary of State to believe that you are not Roma, Ashkaelia or Egyptian as no member of the Roma community would refer to themselves as a gypsy. In addition you claim that there are not any different types of gypsy (AIR Q.58 & Q.59). However, the gypsy communities are split into three distinct groups, Roma, Ashkaelia and Egyptians. Roma are not a homogenous or cohesive group - they are made up of various groups with different allegiances, linguistic and religious traditions. Most have a settled rather than nomadic lifestyle. Although sometimes categorised together, Roma are distinct from the groups known as Ashkaelia or Egyptians. (Yugoslavia country assessment 6.47). The Secretary of State is of the opinion that if you were genuinely from the Roma community, you would be aware of the existence of these three groups. The fact that you were not leads him to believe that you are not from the Roma community as you claim.
13. Furthermore, you claim that you cannot speak any of the gypsy languages and that you speak only Albanian (AIR Q.69-Q.73). The Secretary of state notes that when asked the question "What is the gypsy language called" (AIR Q.71) you answered "It's their own language". The Secretary of State believes had you been a genuine Roma as you claim you would have known the answer to this question. In addition, you state that "No you couldn't speak it" (AIR Q. 72) and "That you didn't like it but that your father spoke it" (AIR Q. 73). The Secretary of State believes that if your father spoke the Romany (gypsy) language that you would be able to speak it too. If you were genuine Roma you would have learnt Romany as a child, as we have no choice in the language we learn as develop. We learn the language that are parents speak to us and the language spoken in the home, in your case had you been a genuine Roma this would have been Romany. The fact that you claim to have no knowledge of Romany and did not know what their language was called leads the Secretary of State to believe that you are not Roma as claimed. Roma clearly identify themselves as Roma and tend to use Romany as their mother tongue, although a large percentage of the Roma population can speak Serbian (Yugoslavia country assessment 6.48). The Secretary of State believes that as you have no knowledge of the Romany language and that you cannot communicate in it he believes that you are not a Roma and therefore, you would nothing to fear from the Kosovans should you return to Kosovo due to your claimed membership of the Roma community.
14. In addition, you claim that you are a gypsy but you are ignorant of many aspects of gypsy customs and culture (Q.75-Q.77). You claim that you have a gypsy feast day on 22nd July but you do not know what it celebrates, why you celebrate it or what the feast day is called.
15. For the reasons stated in paragraphs 12, 13 and 14, the Secretary of State does not believe that you are a Roma as you claim to be. He therefore believes that as you are not a Roma you would have nothing to fear from Kosovans or any other agents of persecution should you return to Kosovo.
16. You claim to have lived in the village of Klodernic/Kladernica all your life (AIR Q.4). However there were no Roma families living in Klodernic/Kladernica. Out of an estimated population of 2100 there were no Roma amongst them. The Secretary of State does not believe that you are Roma and therefore does not believe you would have anything to fear from Kosovans should you return to Kosovo. (Kosovo country assessment- Ethnic populations in Kosovo).

Handwritten note:
 You did not speak
 Romany as a child
 you did not know
 what it was called

Handwritten note:
 Kosovans

17. You claim that you and your family had spent the past two years living in the Koresh mountains (AIR Q.16-Q.18) as you were in fear of the Kosovans and that subsequently the Kosovans tracked your father down and killed him (AIR Q.23). The Secretary of State does not believe that your father would of sufficient status for the Kosovans to have waited from when the Serbs left in June 1999 until May 2002 to track him down to the mountains and kill him. Moreover for the reasons stated in paragraph 16 the Secretary of State does not believe that your father was killed by the Kosovans.
18. You also claim that you reported your fathers death to the authorities, specifically K-For in Skeneraj and that it was investigated (AIR Q.43-Q.47). The improvement in the security situation for RAE is reflected in the crime statistics. During the year 2000, 12 Roma were murdered; in 2001 the figure was 6; none have been killed in 2002. (Kosovan country assessment 6.52). Given your claim that you reported your fathers murder to the authorities and the fact that no Romas are reported by the authorities to have been murdered this year. The Secretary of State does not believe your claim that your father was murdered or that you will be if you return to Kosovo.
19. The Secretary of State notes the contradictions in your account. You claim that the week before your father was killed the Kosovans came to your house looking for your father and that they killed your dog and demolished your house (AIR Q.23-Q33). However, you also claim that the dog was in the mountains with you and that your house had remained empty from when you left in 1999 until when it was demolished by the Kosovans in May 2002 (AIR Q.27-Q.31 & Q.16-Q.18). The Secretary of State does not believe that your dog could have been in two places at once, namely the mountains and your house. The Secretary of State does therefore not believe that you where in the mountains or that your dog was killed you claim as he does not believe that you are a Roma. The Secretary of State does not believe your dog was killed or your house demolished because you are not a Roma. Therefore he does not believe you would be persecuted by Kosovans should you return to Yugoslavia.
20. You have applied for asylum in the United Kingdom on the grounds of the general security situation in Kosovo and that you have no housing or means of support there as your father has been murdered and your mother has ran off with a Serb. The Secretary of State has carefully considered this claim. While he is aware that there have been security difficulties in Kosovo, which the UN administration is addressing, he has concluded that you would not be at risk of persecution for a Convention reason there. Moreover, having no suitable accommodation or means of support are not Convention reasons for granting a person asylum.
21. The Secretary of State notes the contradictions in your accounts specifically that you do not know your own date of birth. You claim in your (SEF Q.1.7) that your date of birth was 16/08/1985. However in the IS159 report you give your date of birth as 16/10/1984. This when taken into account with your lack of knowledge of the Romany culture and language leads him to disbelieve the rest of your account. He therefore does not believe you would have anything to fear from the Kosovans should you return to Kosovo.
22. You claimed you arrived in the United Kingdom on 03/07/2002 (SEF 2.5). However the Secretary of State notes that you were served with illegal entrant papers on the 02/07/02. You did not claim asylum in the United Kingdom until 17/07/02 by post. The Secretary of State notes that the delay in claiming asylum casts doubt on your asylum claim. He concludes if you were in genuine fear of being returned to Kosovo you would have claimed asylum at the earliest opportunity.

What was your father's status? Killed by a Serb?

Not contradictory.

Is name & date? New 159

23. The Secretary of State notes that you claimed asylum only after you had been apprehended and faced with removal from the United Kingdom. The Secretary of State concludes that you have made an application for asylum in an attempt to prevent your removal from the United Kingdom. Consequently, he does not believe the claims made in support of your application.
24. In light of all the evidence available to him, the Secretary of State has concluded that you have not established a well-founded fear of persecution and that you do not qualify for asylum. Your application is therefore refused under paragraph 336 of HC 395 (as amended) and has been recorded as determined on 02/12/02.
25. The Secretary of State has also given careful consideration to your rights under Article 2 of the European Convention on Human Rights. However he does not consider that there are substantial grounds for believing that you would face treatment contrary to Article 2 if you are returned to Kosovo. The Secretary of State is aware that the security situation has considerably improved in Kosovo and that there is an effective security force to offer you protection (paragraph 12). However, the Secretary of State does not believe that you are a Roma as claimed and that you would not be killed or face any form of persecution from members of the Kosovan populace should you return to Kosovo. The Secretary of State does not believe that if you are returned to Kosovo that there would be a breach of Article 2 of the ECHR.
26. Furthermore the Secretary of State has given careful consideration to whether you should be allowed to remain in the United Kingdom as a result of our obligations under any of the other articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms, but he is not satisfied on the information available that your removal would be contrary to our obligations.

*Did you claim asylum after you were apprehended?
What do you fear?*

You are now required to state any reasons for staying in the United Kingdom which were not previously disclosed. Please read the enclosed **One-Stop Notice** carefully. The reasons must be stated on the **Statement of Additional Grounds** attached to the **Notice of Appeal** and these should be returned together (with a copy of the **Reasons for Refusal Letter** and the **Notice of Decision**) to the address given on the Notice of Appeal.

If you have not yet taken advice on your position, you are strongly advised to do so now.

Help and advice on returning home can be obtained from the Immigration Office dealing with your case, or the Immigration Service on: (020) 8760 2290 between 9 a.m. and 5 p.m., Monday to Friday.

Alternatively help and advice for asylum seekers and those whose asylum claim has been refused who wish to return home voluntarily can be obtained from the International Organization for Migration. They can be contacted at:

26 Westminster Palace Gardens
Artillery Row
London
SW1P 1RR

Telephone: (020) 7233 0001
Fax: (020) 7233 3001

E-mail: varp@iomlondon.org
Website URL: www.iomlondon.org

The International Organization for Migration is an independent international organisation and is not part of the Home Office.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'A. Phillipson'.

A Phillipson

Caseworker
On Behalf of the Secretary State
Integrated Casework Directorate

Encs: